

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON GMOSER,

Defendant.

CASE NO. 1:15-cr-069

JUDGE COLE

MOTION FOR PRELIMINARY ORDER OF FORFEITURE

The United States, by its undersigned counsel, hereby moves this Court, pursuant to Federal Rule of Criminal Procedure 32.2(b), for the issuance of a Preliminary Order of Forfeiture. This motion is supported by the record in this case and the following memorandum.

MEMORANDUM

On July 1, 2015, a grand jury in the Southern District of Ohio returned a twelve-count Indictment charging defendant Jason Gmoser in Count 6 with Production of Child Pornography, in violation of 18 U.S.C. § 2251(a), among other violations. (Doc. 11.)

The forfeiture allegation in the Indictment provided notice to the defendant that the United States would seek the forfeiture, pursuant to 18 U.S.C. § 2253(a), of any unlawful visual depiction or property that contains such visual depiction as set forth in 18 U.S.C. § 2253(a)(1) and/or any property the defendant used or intended to use to commit the offenses charged in the Indictment. (*Id.*) The United States has identified the following property for forfeiture (the “subject property”):

- Sony Camera; Serial No. 3515950;
- Lexar 1 GB Memory Stick;
- Sony 4GB Memory Stick;

- Three (3) SanDisk Thumb Drives labeled, Recovery; UBCD 4WM 3.60 Windows SerVer 2003 SP2; and Parted Magic;
- Western Digital 40GB Hard Drive; Serial No. WXC406022218;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ1809056;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ1628172;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ0670461;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAVY0031389;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAVY0088890;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ0731050;
- One External Western Digital Hard Drive with Power Cord; Serial No. Unknown;
- One External Western Digital Hard Drive with Power Cord; Serial No. WXG1AB0H9564;
- Patriot 8GB Micro SD Card with Adaptor; Serial No. Unknown;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXV1E30XYX35T;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXM1AB0Y6625;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WX41C32D7404;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXT1CB1S4712;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXR1A3063089;

- SanDisk Cruzer 32GB Thumb Drive; Serial No. Unknown;
- SanDisk Cruzer 8GB Thumb Drive; Serial No. Unknown;
- SanDisk Cruzer 2GB Thumb Drive; Serial No. Unknown;
- One 32GB PNY Micro SD Card with Adapter; Serial No. Unknown;
- Sony Play Station 3 Console with One Controller; Serial No. CE804470955-CECHH01;
- Logitech Video Web Camera with Cord; Serial No. 1236LZ0FK3V8;
- Nokia Cellular Phone; IMEI 351967/05/197633/5;
- Coolmax Dual Bay SSTA Raid External Hard Drive with Power Cord; Serial No. MQ0509105106;
- Coolmax Dual Bay SSTA Raid External Hard Drive with Power Cord; Serial No. MQ0509105359;
- Sony Vaio Laptop Computer with Cords; Serial No. 545709390000269;
- HP Pavilion Elite Desktop Computer; Serial No. MXX0250GXJ;
- HP Pavilion Elite Desktop Computer; Serial No. MXX029041K;
- Raid Computer Tower with Cords; Serial No. A328ADAEAR200018;
- Raid Computer Tower with Cords; Serial No. A225ADAEAR200088;
- HGST Hard Drive; Serial No. 6PGMJMUC;
- Bitmain Antiminer Labeled “8-18-14” “3”; Serial No. Unknown;
- Bitmain Antiminer Labeled “8-19-14” “5”; Serial No. Unknown;
- Bitmain Antiminer Labeled “8-18-14” “4”; Serial No. Unknown;
- Bitmain Antiminer Labeled “7-24-14” “1”; Serial No. Unknown;
- Bitmain Antiminer Labeled “7-31-14 8/12/14 100%” “2”; Serial No. Unknown;
- Box Containing 7 Bitmain Antiminer Accessories; Serial No. Unknown;

- Seagate Hard Drive; Serial No. 5PV1A4T2;
- All additional items seized, including, but not limited to: all storage media (micro SD cards, 8mm video tapes, Zip drives, CDs, mini CDs, CDRs, DVDs, mini DVDs, floppy disks, VHS tapes, and cassette tapes), documents, packages and photographs; and
- All pornographic material, whether depicting adults or minors or both, and all photographs which depict minors, other than photographs of clothed minor members of the defendant's family.

On December 6, 2022, the defendant entered into a Plea Agreement with the United States in which the defendant agreed to plead guilty to Count 6 of the Indictment and agreed to the forfeiture of the subject property pursuant to 18 U.S.C. § 2253(a)(1) and (3). (Doc. 45.) The defendant entered a plea of guilty to Count 6 of the Indictment on December 7, 2022. (Doc. 46.)

Rule 32.2(b)(1)(A) of the Federal Rules of Criminal Procedure provides, in relevant part: “If the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense.” Fed. R. Crim. P. 32.2(b)(1)(A). “The court’s determination may be based on evidence already in the record, including any written plea agreement, and on any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable.” Fed. R. Crim. P. 32.2(b)(1)(B).

Based on the evidence set forth in the record, the United States asserts that it has established the requisite nexus between the subject property and the offense to which the defendant has pled guilty. Accordingly, the property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 2253(a)(1) and (3).

WHEREFORE, the United States respectfully requests that this Court enter a Preliminary Order of Forfeiture, forfeiting the subject property to the United States.

Respectfully submitted,

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s/Christy L. Muncy

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2023, a copy of the foregoing United States' Motion for Preliminary Order of Forfeiture was filed with the Court's electronic filing system (CM/ECF), which will send electronic notification of such filing to all parties represented by attorneys who are registered CM/ECF users.

s/Christy L. Muncy

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